

### REMARKS

The Office Action mailed June 10, 2009 has been reviewed and carefully considered. Claims 1-8 and 26 are pending in this application. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

Claims 1-3 and 5-7 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,466,832 to Zuqert et al. (hereinafter “Zuqert”) in view of U.S. Patent No. 4,940,951 to Sakamoto (hereinafter “Sakamoto”).

Claim 1 recites, *inter alia*, “a processor (34) for polling the decoder for detecting a loss of phase lock condition.” Claim 7 recites analogous language. The Examiner concedes that Zuqert does not disclose this element, but asserts instead that Sakamoto teaches it. The Examiner further states that Sakamoto’s PLL “actively checks” a decoder for loss of a phase lock condition, and that such checking reads on the claimed polling.

However, the Examiner’s interpretation is not a reasonable interpretation of the word “polling.” Applicant attempted to explain polling as actively checking the status of the decoder and contrasted this to Sakamoto, which performs its detection of an unlocked state via a passive process. The words “active,” “passive,” and “polling” should be interpreted as they would be interpreted by one having ordinary skill in the art. *See* MPEP § 2111.01(III). In this case, “actively checking” a decoder or “polling” the decoder means that the component doing the polling is sending some sort of *request* to the decoder, and that the decoder responds with information about its state. This is in contrast to a passive detection, where only the decoder’s undisturbed output would be used.

This interpretation of polling is affirmed by Webopedia, a dictionary for terms related to computer and electronics located at <http://www.webopedia.com>. Webopedia most relevantly defines “polling” as:

(2) Making continuous requests for data from another device. For example, modems that support polling can call another system and request data.

Sakamoto does not disclose or suggest any sort of polling. Sakamoto’s PLL monitors the output of the phase comparator 14a but, as noted in the previous response, it does so *passively*. The PLL never makes a request to the phase comparator for information about the phase lock condition — the phase comparator provides phase information continuously, without any prompting, and the PLL determines for itself what state the device is in. This cannot represent the claimed “polling,” because the PLL does not make requests to any other device. Indeed, the only output of the PLL that is shown is the standard feedback frequency from the VCO 19, which cannot represent “polling” as it is a simple oscillating signal and in no way comprises a request for data.

It is therefore respectfully asserted that Zuqert and/or Sakamoto, taken alone or in combination, fail to disclose or suggest polling the detector for detecting a loss of phase lock condition. For at least this reason, it is believed that claims 1 and 7 are in condition for allowance. Because claims 2–3 and 5–6 depend from claim 1 and include all of its elements, it is believed that claims 2–3 and 5–6 are also in condition for allowance. Reconsideration of the rejection is earnestly solicited.

Claims 4 and 8 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Zuqert in view of Sakamoto and further in view of U.S. Patent No. 6,389,548 to Bowles (hereinafter “Bowles”).

Claims 4 and 8 depend from claims 1 and 7 respectively and therefore include all of the elements of their parent claims. Bowles cannot cure the deficiencies of Zuqert and Sakamoto described above. It is therefore respectfully asserted that Zuqert, Sakamoto, and/or Bowles, taken alone or in any combination, fail to disclose or suggest all of the elements of claims 4 and 8. It is therefore believed that claims 4 and 8 are in condition for allowance. Reconsideration of the rejection is earnestly solicited.

Claim 26 was rejected under 35 U.S.C. §103(a) as being unpatentable over Zuqert in view of Sakamoto and further in view of U.S. Patent Publication No. 2002/0072817 to Champion (hereinafter "Champion").

Claim 26 depends from claim 1 and therefore includes all of its elements. Champion cannot cure the deficiencies of Zuqert and Sakamoto described above. It is therefore respectfully asserted that Zuqert, Sakamoto, and/or Champion, taken alone or in any combination, fail to disclose or suggest all of the elements of claim 26. It is therefore believed that claim 26 is in condition for allowance. Reconsideration of the rejection is earnestly solicited.

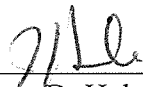
Claims 1-8 and 26 stand provisionally rejected on the ground of non-statutory obviousness type double patenting as being unpatentable over claims 1, and 7-8 of co-pending U.S. Application Serial No. 10/516859 in view of Zuqert. Applicant will consider filing a duly executed Terminal Disclaimer in compliance with 37 C.F.R. 1.321 to overcome this rejection upon resolution of all other existing matters.

It is therefore respectfully submitted that the present invention is not disclosed or suggested by the cited references taken alone or in combination. Claims 1-8 and 26 are believed to be in condition for allowance for at least the reasons stated above. Withdrawal of all the rejections and early and favorable reconsideration of the case is respectfully requested.

In view of the foregoing, Applicant respectfully requests that the rejections of the claims set forth in the Office Action of June 10, 2009 be withdrawn, that pending Claims 1-8 and 26 be allowed, and that the case proceed to early issuance of Letters patent in due course. As discussed above, a terminal disclaimer may be filed upon indication by the Examiner that all other existing issues are resolved.

It is believed that no additional fees or charges are currently due. However, in the event that any additional fees or charges are required at this time in connection with the application, they may be charged to applicant's representatives Deposit Account No. 07-0832.

Respectfully submitted,

By:   
Jeffrey D. Hale  
Registration No. 40,012

Date: 8-7-09

**Mailing Address:**

**THOMSON LICENSING LLC  
PATENT OPERATIONS  
P.O. BOX 5312  
PRINCETON, NJ 08543-5312**